

UNITED STATES BANKRUPTCY COURT
for the Eastern District of Pennsylvania

In re	:	Case No. 11 - 18010
Fawwaz F. Beyha	:	(Chapter 11)
Debtor.	:	
	:	Hon. Jean K. FitzSimon
	:	

Debtor's Amended Motion to Reopen Case

AND NOW, comes Debtor, Fawwaz F. Beyha, by and his attorney, Ronald G. McNeil, Esquire, hereby moves to reopen his case for a limited purpose, and, as reasons therefor, states as follows:

1. On October 16, 2011, Debtor, by and through his attorney, commenced this case by filing the above-captioned voluntary petition for relief under Chapter 13 of Title 11, United States Code.
2. This petition included debts owed to Springleaf Financial Services, Inc., f/k/a, American General Finance Services [P.O.C. # 16] ("Spring") on Debtor's schedules and included Spring on Debtor's Matrix for its August 12, 1997 mortgage on 1900 South 19th Street in Philadelphia, Pennsylvania 19145.
3. This petition included debts owed to Ocwen Loan Servicing, LLC, f/k/a, Delta Funding Corporation [P.O.C. # 4] ("Ocwen") on Debtor's schedules and included Ocwen on Debtor's Matrix for its October 31, 2006 mortgage on 1900 South 19th Street in Philadelphia, Pennsylvania 19145.
4. On May 23, 2012, Debtor converted this case to a Chapter 11.
5. This Honorable Court has jurisdiction to hear this motion pursuant to 11 U.S.C. § 350(b) and 28 U.S.C. § 1334.
6. On May 27, 2012, this Court mailed this Creditor a copy of the Notice of Meeting of Creditors (dkt # 165).
7. On September 27, 2012, Debtor by and through his attorney, mailed his Creditors a copy of the Motion to Set Last Day to File Proofs of Claim (dkt # 225).

8. On October 1, 2012 and after the satisfaction of its claim, Spring supposedly assigned its claim to another entity, Conestoga Title Insurance Company (“Conestoga”).
9. Debtor purchased title insurance from Conestoga for this October 31, 2006 refinancing transaction, which was the basis of this October 1, 2012 assignment.
10. As of March 14, 2012, Conestoga knew of this bankruptcy filing.
11. This assignment is inconsistent with Pennsylvania’s anti-subrogation doctrine.
12. On January 16, 2013, Conestoga supposedly recorded a Subordination Agreement, which it did not provide a copy to Plaintiff.
13. Inconsistent with Rule 3001(e)(2) of the Federal Rules of Bankruptcy Procedure, Conestoga failed to inform Debtor or this Court of this claim transfer.
14. On August 6, 2014, Debtor filed his Eighth Modified Plan, which provided for the modification and extinguishment of Spring’s claim pursuant to 11 U.S.C. § 1123(a)(5)(E) in conjunction with 11 U.S.C. § 506(a) and (d).
15. On September 19, 2014, this Court mailed his Creditors a copy of the Order approving Debtor’s Disclosure Statement and setting the date for the Confirmation Hearing (dkt # 362).
16. Without any objection from Conestoga, from Ocwen, or from Spring, this Court confirmed this Plan on December 3, 2014.
17. On December 6, 2014, this Court mailed his Creditors a copy of the Order confirming this Chapter 11 Plan (dkt # 411).
18. On June 9, 2018, Debtor, by and through his attorney, mailed Ocwen, Spring, and other creditors a copy of his Motion to Reopen Case and its Notice of Motion (dkt # 465 and 466).
19. Without any objection from Ocwen and from Spring, this Court on June 27, 2018 reopened Debtor’s case to seek a discharge.
20. Without any objection from Conestoga, from Ocwen and from Spring, this Court granted Plaintiff a discharge, pursuant to 11 U.S.C. § 524, on June 28, 2018.

21. Pursuant to *United States Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 275 (2010) (the bankruptcy court orders are binding on creditors that failed to object or to timely appeal such orders), Ocwen and Spring's claim falls within the scope of this discharge.
22. On July 2, 2018, this Court closed this case.
23. Until a few weeks ago, Conestoga never made a claim against Plaintiff.
24. Despite warning, Conestoga and its agents have refused to stop demanding payment for this August 12, 1997 debt.
25. Debtor cannot sell one of his real properties because of Conestoga's demands for payment.
26. Debtor wants to reopen this case to file an Adversary Complaint, seeking to file a Motion to Determine Value and to cramdown Conestoga's claim.
27. In the alternative, Debtor wants to reopen this case to file an Adversary Complaint, seeking the enforcement of the Discharge Injunction and the cost of this litigation. A copy of this proposed adversary complaint is attached hereto as Exhibit "B."

WHEREFORE, Debtor respectfully requests that this Honorable Court reopen his case for the limited purpose of lien stripping or of prosecuting this Adversary Complaint.

Respectfully submitted,

/s/ Ronald G. McNeil
Ronald G. McNeil, Esquire
Attorney for Debtor
DATE: March 3, 2020
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CERTIFICATE OF SERVICE

Pursuant to Local Rule 9014-3(g) of the Federal Rules of Bankruptcy Procedure, I, Ronald G. McNeil, Esquire, certify that a true and correct copy of Debtor's Amended Motion to Reopen Case was served via electronic means, via hand delivery, and/or via first class postage prepaid, properly franked upon the following:

Conestoga Title Insurance Company
c/o Clemm & Associates, LLC
ATTN: Mark C. Clemm, Esquire
488 Norristown Road, Suite 140
Blue Bell, PA 19422-2352

Springleaf Financial Services, Inc., f/k/a,
American General Finance Services
c/o Fox & Fox
ATTN: Benjamin E. Witmer, Esquire
One Montgomery Plaza, Suite 706
Norristown, PA 19401-4825

Ocwen Loan Servicing, LLC
c/o Phelan, Hallinan & Schmieg, LLP
ATTN: Sherri J. Smith, Esquire
One Penn Center at Suburban Station
1617 J.F.K. Blvd, Suite 1400
Philadelphia, PA 19103-1814

Office of the U.S. Trustee
833 Chestnut Street, Suite 500
Philadelphia, PA 19107-4414

/s/ Ronald G. McNeil
Ronald G. McNeil, Esquire
Attorney for Debtor
DATE: March 4, 2020